



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35612]

Manning Grain Company—Acquisition and Operation Exemption—Fillmore Western Railway Company

Manning Grain Company (MGC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Fillmore Western Railway Company (FWRC) and operate a 7.1-mile rail line between its point of connection with BNSF Railway Company at milepost 8.1 at or near Fairmont and terminus at milepost 15.2 at or near Burress, in Fillmore County, Neb. (the Line).

The Line is part of an approximately 23.2-mile rail line (the Fairmont-Milligan line) that FWRC was authorized to abandon in Fillmore Western Ry.—Aban. Exemption—in Fillmore Cnty., Neb., AB 492 (Sub-No. 2X) (STB served June 27, 2001). MGC acquired the Line from FWRC in 2005. MGC states that, at that time, it believed it was acquiring the Line as private industrial track, but that it since has learned that FWRC did not consummate its abandonment authority for the Fairmont-Milligan line by filing a notice of consummation. Thus, MGC states, it unknowingly became a rail carrier by virtue of its 2005 acquisition of the Line.¹

¹ In a notice of exemption filed on March 8, 2012, in Docket No. FD 35607, Manning Rail, Inc.—Acquisition and Operation Exemption—Manning Grain Company, Manning Rail, Inc., a noncarrier, seeks to acquire the line from MGC and operate it. That notice has been held in abeyance at the request of Manning Rail Inc. to permit it to investigate the history of the line.

The effective date of the exemption will be April 20, 2012 (30 days after the verified notice was filed).²

MGC certifies that its projected annual revenues as a result of this transaction will not exceed \$5 million and will not exceed those that would qualify it as a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than April 13, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35612, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, D.C. 20423-0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: April 3, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

² While the verified notice indicates that MGC is seeking an exemption to authorize the acquisition “retroactively,” MGC’s authority will be effective prospectively from April 20, 2012.

Jeffrey Herzig

Clearance Clerk

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